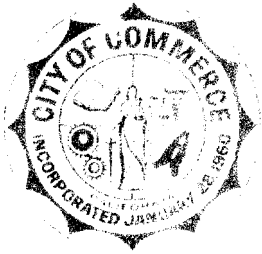


EX PARTE OR LATE FILED

ORIGINAL
FILE



CITY OF COMMERCE

Robert J. Cornejo, Mayor
James B. Dimas, Sr., Mayor Pro Tem
Ruth R. Aldaco, Councilmember
Ruben C. Batres, Councilmember
Artemio E. Navarro, Councilmember
Louis Shepard, City Administrator

January 26, 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, DC 20554

Dear Ms. Searcy:

Please find enclosed an original and five copies of the following:

- 1) reply comments of the City of Commerce and Communications Support Group, Incorporated regarding Cable Television Customer Service Standards (MM Docket No. 92-263)
- 2) initial comments of the City of Commerce and Communications Support Group, Incorporated regarding Cable Television Rate Regulations (MM Docket No. 92-266)

Sincerely,

Judith A. Rambeau
Judith A. Rambeau
Public Information Officer

enclosures

No. of Copies rec'd
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of

Implementation of Section 8 of the
Cable Television Protection and
Competition Act of 1992

Consumer Protection and Customer
Service

MM Docket No. 92-263

The City of Commerce, California, a municipal corporation located in urban Los Angeles County and Communications Support Group, Inc., a private consulting firm located in Santa Ana, California wish to enter into the record the following reply comments regarding the Federal Communications Commission's Notice of Proposed Rule Making in the matter of Implementation of Section 8 of the Cable Television Consumer Protection and Competition Act of 1992 (CPCA) - Consumer Protection and Customer Service.

All references to specific paragraph and footnote numbers are to be understood as those explicitly listed in the above mentioned FCC document. Accordingly, and based on our understanding of the information the Commission is seeking to exact, our comments will be divided into four parts: Self-Execution of Standards (para 2 & 4), Timelines and Methods for Implementation (para 6 & 7), Exemptions and Lower Standards (footnote 9 and para 12, 17, & 18), and Standards to be Adopted (para 10, 18 & 19).

PART I
Self-Execution of Standards

In paragraph 4 of the NPRM, the Commission asks for comments on what the Commission deems to be the threshold question -- are Federal standards self executing or must a franchising authority take affirmative actions to make these standards enforceable? While we would agree with the Commission that the CPCA lacks an explicit congressional edict with respect to this particular question, we believe that there exists no vagueness with respect to congressional intent. The very passage of the cable act, and the specific inclusion of a separate section on customer service, clearly signals congressional belief that national customer service standards are necessary. Furthermore, the very notion of national standards implies that there be a minimum level of service requirements for all cable systems.

From the start in 1984, the City of Commerce has been committed to assuring for its citizens the highest quality cable television customer service standards. Improvements to signal quality and

programming while keeping rates low were factors which initially led to the City purchasing its own cable system. The City's lease agreement with the cable television provider specifies a number of customer service performance standards including an accessible office, a toll free telephone number with prompt response times, and responsive corrective actions for picture effecting problems.

Even given these, our residents from time to time report customer service difficulties. The Commission states at paragraph 2 that: "Prior to the new cable act, local governments were permitted to enforce customer service requirements" and that "[d]espite this ability, Congress has found continued and widespread customer dissatisfaction..." More to the point, we believe that implicit in the passage of the CPCA and the preparation of this NPRM - Congress and the FCC, respectively, have pointed to a solution, i.e. national standards which are to be self-executing.

The notion that local regulators can enact customer service standards at will and unilaterally is a myth. In practice, attempts to enact higher standards during the middle of a franchise term are, invariably, met with law suits alleging breach of contract. In an industry where 15 year franchise agreements are the norm and 50 year agreements not uncommon, the problem is compounded. If the enactment and enforcement of appropriate customer standards were simply a matter of procedure, national legislation would never have come to pass. There is an immediacy to this problem that the Commission needs to apprise itself of. Placing the burden of action on franchising authorities (by suggesting anything other than self-execution) may result in weaker and delayed implementation of appropriate standards. Need you be reminded that justice delayed is justice denied. Consequently, we believe that Congress could not have intended a slow track course for such an important and overdue piece of consumer legislation. Furthermore, allowing these standards to be adopted or modified by franchising authorities, without restraint, will result in a variety of standards, some substantially lower than the Federal levels. If self-execution is not the chosen path, it may be months or even years after the commission acts on this matter before the standards are enacted and enforceable on a local level (without a clear directive, legal challenges from deep pocketed cable operators could tie up implementation for years).

While some commenters have argued that the standards should not be self-executing so that local franchising authorities may tailor the standards to their own particular circumstances - we believe that appropriate standards coupled with the ability of franchising authorities to enact or negotiate standards that go beyond the federal mandate, will achieve any need for more strict community specific regulations. Alternatively, since regulatory enforcement is designed to be performed at the local level, if the adoption of overly strict standards proves to be economically ruinous to the viability of a local cable operation, local regulators will have the ability to temper their effect by waiving, postponing, or mitigating

penalties. Furthermore, in the event zealous regulators go too far in their attempts to protect the public good, cable operators still have protection under the "commercial impracticability" rubric that was enacted and explicitly spelled out in sections 625 and 635 of the 1984 Cable Act. To conclude this section, we believe that self executing standards are in the public interest, that any other course would ignore congressional intent, the immediacy of the problem, and result in a zero sum gain for consumers.

PART II TIMELINES AND METHODS FOR IMPLEMENTATION

Following from the above discussion, the Commission asks for comments at paragraph 6 in regards to their interpretation that while the 1984 Cable Act permitted a franchising authority to impose customer service requirements only as part of an initial franchise award or renewal, "the new Cable Act imposes no such limitation." We agree with this interpretation wholeheartedly. However, we would like to add that we believe the specific wording by Congress was not an absence of thought, but a positive and pro-active step forward. In fact, we believe Congressional intent to be abundantly clear. As the Commission notes in footnote 11, the Committee report on S.12 had language that would have grandfathered existing contracts. However, the Conference Report chose to adopt the House version which in effect deleted the grandfathering proposal. As mentioned in Section I of this paper, due to the immediacy of the problem and the length of most franchise agreements, Congressional intent cannot be achieved without the sweeping approach we advocate here.

In paragraph 7 the Commission asks: "when, pursuant to the new Act, a local government may impose new customer service standards...?" The Commission follows this request for comment with the following: "We deem it unlikely that Congress intended for there to be no changes in customer service requirements prior to the expiration of each current franchise agreement." Obviously, we could not agree with the Commission more. If the Commission is looking for support on this interpretation, it certainly has ours. In terms of how much time - we believe a 180 day period (from the establishment of the standards) would be more than ample for operator preparation.

Lastly, the Commission also asks in paragraph 7 that: "Since the Act only requires the Commission to establish Federal standards, and not enforce them... whether the Commission should have any role with regard to customer service obligations once the standards have been established." Given the Commission's much publicized over worked and under staffed condition, we believe that the Commission should delegate all enforcement activities to the local franchising authority. However, for guidance purposes, we think it would be wise if the Commission set a maximum penalty limit, but allow the actual schedules of fines to be established, by ordinance, by the local authority. In this way, the Commission spells out what it hopes to

achieve, and promotes the accomplishment of that achievement via a monetary incentive mechanism through which local authorities can recoup the costs of regulation. Sans national guidance and without such a proscribed delegated structure - disparate, confusing and conflicting regulatory practices would develop. As a consequence, we envision a delay of congressional will due to likely legal challenges, and the difficulty the courts and/or the Commission may have in later determining just standards. At this time the policy decision rests with the Commission. If the Commission shirks that decision and indeed what we believe to be their congressionally mandated responsibility, national policy may once again end up being shaped in that most inappropriate policy forum - the courts.

PART III EXEMPTIONS AND LOWER STANDARDS

In reviewing the history of legislatively adopted customer service standards within any industry, policy pronouncements have consistently striven to allow for flexibility with regards to the variances in particular systems or geographic areas. In the case of cable television, Congressional intent (as articulated in both the 1984 Cable Act and the 1992 Cable Act) is clear with respect to the ability of a franchising authority to tailor-make and adopt more stringent standards than those adopted federally. However, in footnote 9 the Commission seeks comment on whether franchising authorities should be able to adopt standards lower than those adopted federally. In particular, the Commission asks if the CPCA should be read to allow the Commission to grant waivers or exemptions in a given area and, if so, under what circumstances a waiver would be justified?

In what may be a rhetorical answer to their own question, at paragraph 18 the Commission invites comments on the following question: "[H]ow a single benchmark can properly reflect the needs and concerns of each cable community in the nation?" At paragraph 17 the Commission suggests adopting a "series of standards based upon size and other characteristics of the cable system." We too can see that certain customer service requirements would be more easily achieved in a large suburban or urban system than in a rural community of, say, 1,000 or less subscribers. We choose the 1,000 subscriber figure because in the City of Commerce that is precisely the number of constituents who are now subscribing to cable, but in our case we are an urban city. Thus, if the Commission were to create a category of exemptions based on size (system or community population), the local operator would be a qualifier and our local citizenry would not benefit from this proceeding. The local operator here is not a small system entrepreneur but a large MSO, and our 1,000 cable subscribing constituents are currently served (via microwave hub) out of the same plant and by the same staff as 100,000 cable subscribing residents of other municipalities. Consequently, we caution the Commission in creating waivers in this manner or based upon this characteristic. Furthermore, we ask that if the Commission chooses such an approach, that it redefine the term "cable system" (from the current CPCA definition) to accommodate the common phenomena of multi-

jurisdictional systems and large MSO's who provide service in isolated areas - versus the small mom and pop type operation which serves in areas that otherwise would not receive service.

To conclude this section, we think a single "fair" benchmark is workable for all but, perhaps, the smallest of players. Consequently, we believe that exemptions may be warranted in certain areas, but overall company size and not individual system size should be the criteria. As alluded to in Section II of this paper, we believe that local selected enforcement of nationally mandated standards, coupled with the protections explicit in sections 625 and 635 of the Cable Act, is the best way to achieve customized flexibility in this area.

PART IV STANDARDS TO BE ADOPTED

We suggest the following standards be adopted as the nationally acceptable minimum. Our standards are a product of the NCTA Customer Service Standards contained in your proposed rulemaking, with revisions garnered from the following: Legislation recently enacted by the State of California (Cal. State bills SB-1010 & AB-2388); and the Customer Service Standards Recommended by Local Governments document which was jointly filed in the comments round of this proceeding by the National Association of Telecommunications Officers and Advisors (NATOA), National League of Cities, and the U.S. Conference of Mayors. For the Commission's convenience we have attached copies of the above referenced documents to this paper. We respectfully request that the Commission review the California State bills and the NATOA proposal in their entirety and as part of this document.

1. Office and Telephone Availability

- A. Knowledgeable, qualified company representatives will be available to respond to customer telephone inquiries 24 hours a day seven days per week
- B. Under normal operating conditions, telephone answer time by a customer service representative, including wait time, and the time required to transfer the call, shall not exceed 30 seconds during normal business hours. Other than normal business hours, wait times shall be decided by the local franchising authority. Those systems which utilize automated answering and distributing equipment will limit the number of routine rings to four or fewer. Systems not utilizing automated equipment shall make every effort to answer incoming calls as promptly as the automated systems. This standard shall be met no less than ninety percent of the time (as measured on an annual basis).
- C. Under normal operating conditions, the customer will receive a busy signal less than three percent of the total time that the cable office is open for business.

- D. Customer service center and bill payment locations will be open for transactions Monday through Saturday during normal business hours. Additionally, based on community needs, cable systems will schedule supplemental hours on weekdays and/or weekends during which these centers will be open.

In certain smaller cable systems with 1,000 or fewer subscribers, systematic measurement of compliance with some of these standards (e.g., telephone answering time) may be affected. Consequently, exemptions should be allowed based on system economics. However, systems should not be exempted based solely on size. In determining exemptions, system affiliation (e.g. MSO affiliation), and multi-jurisdictional system areas should be taken into consideration.

2. Installations, Outages and Service Calls

Under normal operating conditions, each of the following four standards will be met no less than 95% of the time (as measured on an annual basis).

- A. Standard installations will be performed within seven business days after an order has been placed. "Standard" installations are up to 150 feet from the existing distribution system.
- B. Excluding those situations beyond the control of the cable operator, the cable operator will respond to service interruptions within the following time frames including weekends and holidays:

System outage (one home) - 2 hours
Area outage (4 or more homes) - 4 hours
Isolated problem (one home) - 24 hours.

- C. The appointment window alternatives for installations, service calls, and other installation activities will be offered in four hour blocks. Additionally, based on community needs, cable systems will schedule supplemental hours during which appointments can be set.
- D. If, at any time an installer or technician is running late, an attempt to contact the customer will be made and the appointment rescheduled as necessary at a time which is convenient for the customer.

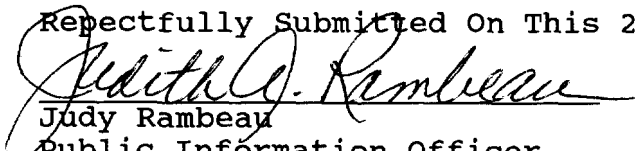
3. Communications, Bills and Refunds

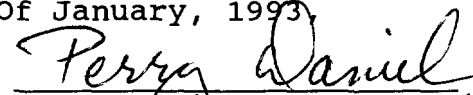
- A. The cable company will provide written information on company policy/procedures in each of the following areas at the time of installation, once annually thereafter, and at any future time upon request:

- Installation, disconnection, service and repair obligations, employee identification, and service call response time scheduling.

- Customer telephone and office hours, procedures for billing, charges, refunds and credits
 - Procedures for termination of service
 - Notice of deletion of a programming service, the changing of channel assignments, or an increase in rates
 - Complaint procedures and procedures for billing dispute resolutions
 - A listing of all services offered that describes all levels of service, the rates for each level of service
 - A description of the rights and remedies which the cable operator may make available to its customers if the operator does not materially meet the standards listed here
- B. Bills will be clear, concise and understandable.
- C. Refund checks will be issued promptly if possible, but no later than the earlier of 45 days or the customer's next billing cycle following the resolution of the request, and the return of the equipment supplied by the cable company if service is terminated.
- D. Every customer who pays for his or her bill directly shall have at least 15 days from the date the bill for services is mailed to pay the listed charges. Customer payments shall be posted promptly. No cable operator shall terminate residential service for nonpayment of a delinquent account without 15 days prior written notice. Such a notice shall not be mailed until after the 16th day from the time the bill for services was mailed to the customer. No cable operator may assess a late charge earlier than the 45th day from the time the bill for services has been mailed.
- E. Customers will be notified a minimum of 30 days in advance of any rate or channel change, provided the change is within the control of the cable operator.

Respectfully Submitted On This 26th Day Of January, 1993


 Judy Rambeau
 Public Information Officer
 City of Commerce
 2535 Commerce Way
 Commerce, CA 90040


 Perry Daniel and John Risk
 Communications Support Group
 P.O. Box 10968
 Santa Ana, CA 92711-0968

Display 1991-1992 Bill Text - INFORMATION
BILL NUMBER: SB 1010

BILL TEXT

PASSED THE SENATE	JULY 2, 1992
PASSED THE ASSEMBLY	JUNE 28, 1992
AMENDED IN ASSEMBLY	JULY 2, 1992
AMENDED IN ASSEMBLY	APRIL 6, 1992
AMENDED IN SENATE	MAY 7, 1991
AMENDED IN SENATE	APRIL 23, 1991

INTRODUCED BY Senator Rosenthal

MARCH 8, 1991

An act to add Article 3.5 (commencing with Section 53054) to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, relating to cable television.

Find Copy

LEGISLATIVE COUNSEL'S DIGEST

SB 1010, Rosenthal. Cable television.

Existing law empowers any city or county or city and county in the state to authorize by franchise or license the construction of a community antenna television system.

① This bill would enact the Cable Television and Video Provider Customer Service and Information Act which would require cable television operators and video providers, as defined, to establish customer service standards containing specified information, and provide a copy of the standards to customers annually. ② The bill also would require each cable television operator and video provider to report, as specified, to its customers regarding the operator's or provider's success in meeting these standards.

③ The bill would authorize a city, county, or city and county to impose specified penalties on cable television operators and video operators for failure to provide this information.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 3.5 (commencing with Section 53054) is added to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 3.5. Cable Television and Video Provider Customer Service and Information Act

53054. This act shall be known and may be cited as the Cable Television and Video Provider Customer Service and Information Act.

53054.1. The Legislature finds and declares all of the following:

Display 1991-1992 Bill Text - INFORMATION
BILL NUMBER: SB 1010

BILL TEXT

(a) In an unregulated environment, customers of cable and video providers should get their money's worth for the service they subscribe to, and one way to ensure this is to encourage that customer service standards be established and that customers be informed to those standards.

(b) Cable television and video providers have made efforts to provide high-quality service to their customers. Cable television and video providers should continue to establish standards for customer service so as to further the development of high-quality customer service.

(c) It is not the intent of this article to establish standards for customer service, but to encourage cable television and video providers to inform their customers about the standards they have established and to work to achieve these customer service goals.

53054.2. As used in this article:

(a) "Cable television operator" means the person or entity providing cable television services through the cable television system.

(b) "Cable television system" means a community antenna television system, under common ownership and control, serving a franchise area or two or more contiguous or electronically connected franchise areas.

(c) "Video provider" means any person, company, or service which provides one or more channels of video programming to a residence, including a home, condominium, apartment, or mobilehome, where some fee is paid, whether directly or as included in dues or rental charges, for that service, whether or not public rights-of-way are utilized in the delivery of the video programming. A "video provider" shall include, but not be limited to, providers of cable television, master antenna television, satellite master antenna television, direct broadcast satellite, multipoint distribution service, and other providers of video programming, whatever their technology.

53055. Each cable television operator or video provider in the state shall establish customer service standards. These customer service standards shall include, but not be limited to, standards regarding the following:

(a) Installation, disconnection, service and repair obligations, employee identification and service call response time and scheduling.

(b) Customer telephone and office hours; procedures for billing, charges, refunds, and credits.

(c) Procedures for termination of service.

(d) Notice of the deletion of a programming service, the changing of channel assignments, or an increase in rates.

(e) Complaint procedures and procedures for bill dispute resolution.

53055.1. (a) Each cable television operator or video provider shall annually distribute to employees, to each customer, and to the city, county, or city and county in which the cable television operator or video provider furnishes service to customers, a notice describing these customer service standards. New customers shall also be provided with this notice when service is initiated.

(b) The notice given to new customers pursuant to this section shall include, in addition to all of the information described in subdivisions (a) to (e), inclusive, of Section 53055, all of the following:

(1) A listing of the services offered by the cable television operator or video provider which clearly describes all levels of service, and including

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BILL NUMBER: SB 1010

BILL TEXT

the rates for each level of service, provided that, if the information concerning levels of service and rates is otherwise distributed to new customers upon installation by the cable television operator or video provider, the information need not be included in the notice to new customers required by this section.

(2) The telephone number or numbers through which customers may subscribe to, change, or terminate service, request customer service, or seek general or billing information.

(3) A description of the rights and remedies which the cable television operator or video provider may make available to its customers if the cable television operator or video provider does not materially meet its customer service standards.

53055.2. After the customer service standards established pursuant to Section 53055 have been in effect for one year, each cable television operator and video provider shall report annually on the performance of that cable television operator or video provider with regard to meeting its customer service standards. This report shall be included in the annual notice required by Section 53055.1.

53055.3. No provision of this article shall be construed to preempt the prerogative of a city, county, or city and county to enforce customer protection standards that are contained in a franchise or license granted to a cable television operator or video provider pursuant to Section 53066.1 or that are otherwise authorized by law for other cable television operators or video providers.

53056. (a) The legislative body of the city, county, or city and county in which the cable television operator or video provider furnishes service to customers may, by ordinance, provide a schedule of penalties for the failure of the cable television operator or video provider to distribute the annual notice required by Section 53055.1, not to exceed five hundred dollars (\$500) for each year in which the notice is not distributed to all customers.

(b) The city, county, or city and county shall give a cable television operator or video provider written notice of any alleged failure to distribute to all customers the annual notice required by Section 53055.1 before imposing any penalty pursuant to subdivision (a). If the cable television operator or video provider distributes this notice to all customers within 60 days after receipt of the notice from the city, county, or city and county pursuant to this subdivision, no penalty shall be imposed upon the cable television operator or video provider pursuant to subdivision (a).

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Co. [Redacted]	Co. [Redacted]	
Ext. [Redacted]	Phone [Redacted]	
Fax # [Redacted]	Fax # [Redacted]	

 10/09/92 *

 PAGE 1

1198An act to add Article 4.5 (commencing with Section 53088) to Chapter 1 of Division 2 of Title 5 of the Government Code, relating to cable television.
 Approved by Governor September 29, 1992
 . Filed with

LEGISLATIVE COUNSEL'S DIGEST

AB 2388, Moore. Cable television.

(1) Existing law empowers any city or county or city and county in the state to authorize by franchise or license the construction of a community antenna television system.

This bill would enact the Video Customer Service Act. It would require all video providers to provide a minimum of 30 days' written notice before increasing rates or deleting channels, except as otherwise specified. It would require every video provider, as defined, to allow every residential customer who pays the video provider directly, at least 15 days from the date the video provider mails its bill for services to pay the charges demanded, unless otherwise agreed to pursuant to a written contract or rental agreement. It would also require notice of delinquency and impending termination to be given at least 15 days prior to the termination of service.

The bill would require video providers to inform their customers of their complaint and grievance procedures upon contracting with the customer. The bill would permit a customer whose complaint or request for an investigation has resulted in an adverse determination to complain to the city or county in which he or she resides. The bill would require cities and counties to resolve disputes concerning rights granted by its provisions, thereby imposing a state-mandated local program. The bill would also require the restoration of service wrongfully terminated without good cause, as defined, without charge.

The bill would authorize the legislative body of the city, county, or city and county, by ordinance, to provide a schedule of penalties for the failure of a video operator to comply with its provisions, as specified.

The bill would become operative on September 1, 1993.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Article 4.5 (commencing with Section 53088) is added to Chapter 1 of Division 2 of Title 5 of the Government Code, to read:
 Article 4.5. Video Customer Service Act

53088. This article shall be known and may be cited as the Video Customer Service Act.

53088.1. (a) "Video provider" means any person, company, or service

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 LEGI-TECH BILL TEXT REPORT 10/09/92 *

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PAGE 2

which provides one or more channels of video programming to a residence, including a home, condominium, or apartment where some fee is paid, whether directly or as included in dues or rental charges, for that service, whether or not public rights-of-way are utilized in the delivery of the video programming. A "video provider" shall include, but not be limited to, providers of cable television, master antenna television, satellite master antenna television, direct broadcast satellite, multipoint distribution services, and other providers of video programming, whatever their technology. A video provider shall not include a landlord providing only broadcast video programming to a single-family home or other residential dwelling consisting of four units or less.

(b) "Material breach" means any substantial and repeated failure to comply with the consumer service standards set forth in Section 53088.2.

53088.2. (a) Every video provider shall render reasonably efficient service, make repairs promptly, and interrupt service only as necessary.

(b) All video provider personnel contacting subscribers or potential subscribers outside the office of the provider shall be clearly identified as associated with the video provider.

(c) At the time of installation, and annually thereafter, all video providers shall provide to all customers a written notice of the programming offered, the prices for that programming, the provider's installation and customer service policies, and the name, address, and telephone number of the local franchising authority.

(d) All video providers shall have knowledgeable, qualified company representatives available to respond to customer telephone inquiries Monday through Friday, excluding holidays, during normal business hours.

(e) All video providers shall provide to customers a toll-free or local telephone number for installation, and service, and complaint calls. These calls shall be answered promptly by the video providers. The city, county, or city and county may establish standards for what constitutes promptness.

(f) All video providers shall render bills which are accurate and understandable.

(g) All video providers shall respond to a complete outage in a customer's service promptly. The response shall occur within 24 hours of the reporting of such outage to the provider, except in those situations beyond the reasonable control of the video provider. A video provider shall be deemed to respond to a complete outage when a company representative arrives at the outage location within 24 hours and begins to resolve the problem.

(h) All video providers shall provide a minimum of 30 days' written notice before increasing rates or deleting channels. All video providers shall make every reasonable effort to submit the notice to the city, county, or city and county in advance of the distribution to customers. The 30-day notice is waived if the increases in rates or deletion of channels were outside the control of the video provider. In those cases the video provider shall make reasonable efforts to provide customers with as much notice as possible.

LEGI-TECH BILL TEXT REPORT 10/09/92 *

AB 2388

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(i) Every video provider shall allow every residential customer who pays his or her bill directly to the video provider at least 15 days from the date the bill for services is mailed to the customer, to pay the listed charges unless otherwise agreed to pursuant to a residential rental agreement establishing tenancy. Customer payments shall be posted promptly. No video provider may terminate residential service for nonpayment of a delinquent account unless the video provider furnishes notice of the delinquency and impending termination at least 15 days prior to the proposed termination. The notice shall be mailed, postage prepaid, to the customer to whom the service is billed. Notice shall not be mailed until the 16th day after the date the bill for services was mailed to the customer. The notice of delinquency and impending termination may be part of a billing statement. No video provider may assess a late fee any earlier than the 22nd day after the bill for service has been mailed.

(j) Every notice of termination of service pursuant to subdivision (i) shall include all of the following information:
(1) The name and address of the customer whose account is delinquent.
(2) The amount of the delinquency.
(3) The date by which payment is required in order to avoid termination of service.

(4) The telephone number of a representative of the video provider who can provide additional information and handle complaints or initiate an investigation concerning the service and charges in question.

Service may only be terminated on days in which the customer can reach a representative of the video provider either in person or by telephone.

(k) Any service terminated without good cause shall be restored without charge for the service restoration. Good cause includes, but is not limited to, failure to pay, payment by check for which there are insufficient funds, theft of service, abuse of equipment or system personnel, or other similar subscriber actions.

(l) All video providers shall issue requested refund checks promptly, but no later than 45 days following the resolution of any dispute, and following the return of the equipment supplied by the video provider, if service is terminated.

(m) Disputes concerning the provisions of this article shall be resolved by the city, county, or city and county in which the customer resides. For video providers under Section 53066, the franchising authority shall resolve disputes. All other video providers shall register with the city in which they provide service or, where the customers reside in an unincorporated area, in the county in which they provide service. The registration shall include the name of the company, its address, its officers, telephone numbers, and customer service and complaint procedures. Counties and cities may charge these other video providers operating in the state a fee to cover the reasonable cost of administering this division.

(n) Nothing in this division limits any power of a city, county, or city and county or video provider to adopt and enforce service standards and consumer protection standards which exceed those established in this division.

 LEGI-TECH BILL TEXT REPORT 10/09/92 *

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(o) The legislative body of the city, county, or city and county, may, by ordinance, provide a schedule of penalties for the material breach by a video provider of subdivisions (a) to (n), inclusive. No monetary penalties shall be assessed for a material breach where the breach is out of the reasonable control of the video provider. Further, no monetary penalties may be imposed prior to the effective date of this section. Any schedule of

monetary penalties adopted pursuant to this section shall in no event exceed two hundred dollars (\$200) for each day of each material breach, not to exceed six hundred dollars (\$600) for each occurrence of material breach. However, where a material breach of any of subdivisions (a) to (n), inclusive, has occurred and the city, county, or city and county has provided notice and a fine or penalty has been assessed, in a subsequent material breach of the same nature occurring within 12 months, the penalties may be increased by the city, county, or city and county to a maximum of four hundred dollars (\$400) for each day of each material breach, not to exceed twelve hundred dollars (\$1,200) for each occurrence of the material breach. Where a third or further material breach of the same nature occurs within those same 12 months, and the city, county, or city and county has provided notice and a fine or penalty has been assessed, the penalties may be increased to a maximum of one thousand dollars (\$1,000) for each day of each material breach, not to exceed three thousand dollars (\$3,000) for each occurrence of the material breach. With respect to video providers subject to a franchise or license, any monetary penalties assessed under this section shall be reduced dollar for dollar to the extent any liquidated damage or penalty provision of a current cable television ordinance, franchise contract, or license agreement imposes a monetary obligation upon a video provider for the same customer service failures, and no other monetary damages may be assessed. However, this section shall in no way affect the right of franchising authorities concerning assessment or renewal of a cable television franchise under the provisions of the Cable Communications Policy Act of 1984.

(p) If the legislative body of a city, county, or city and county adopts a schedule of monetary penalties pursuant to subdivision (o), the following procedures shall be followed:

(1) The city, county, or city and county shall give the video provider written notice of any alleged material breaches of the consumer service standards of this division and allow the video provider at least 30 days from receipt of the notice to remedy the specified breach.

(2) A material breach for the purposes of assessing penalties shall be deemed to have occurred for each day, following the expiration of the period specified in paragraph (1), that any material breach has not been remedied by the video provider, irrespective of the number of customers affected.

(q) Notwithstanding subdivision (m), or any other provision of law, this section shall not preclude a party affected by this section from utilizing any judicial remedy available to that party without regard to this section. Actions taken by a local legislative body, including a franchising authority, pursuant to this section shall not be binding upon

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a court of law. For this purpose a court of law may conduct de novo review of any issues presented.

(r) If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

(s) This section shall become operative on September 1, 1993.

0 SEC. 2. No reimbursement is required by this act pursuant to Section 6
 1 of Article XIII B of the California Constitution because the only costs
 2 which may be incurred by a local agency or school district will be
 3 incurred because this act creates a new crime or infraction, changes the
 4 definition of a crime or infraction, changes the penalty for a crime or
 5 infraction, or eliminates a crime or infraction. Notwithstanding Section
 6 17580 of the Government Code, unless otherwise specified in this act, the
 7 provisions of this act shall become operative on the same date that the
 act takes effect pursuant to the California Constitution.

ATTACHMENT B

**CUSTOMER SERVICE STANDARDS
RECOMMENDED BY LOCAL GOVERNMENTS**

<u>ISSUE</u>	<u>STANDARD</u>
Customer Service Representatives (working hours)	Offices must be staffed a minimum of 50 hours per week, with at least 9 hours per weekday and 5 hours per Saturday.
Customer Service Representatives (after hours)	Local number or toll-free lines to be answered 24 hours per day either by staff or by answering service. Emergency referral information operational 24 hours per day.
Telephone service time requirements	Company must maintain a state-of-the-art telephone system. Calls answered in 4 rings. Lost calls not to exceed 4-1/2%. Maximum 30 second hold. Overflow device for customers to leave messages triggered by a maximum of 20% of callers.
Walk-in office hours	Office must be open at least 50 hours per week, with at least 9 hours per weekday and 5 hours per Saturday.
Customer complaint and service handling reports	Company must compile a quarterly report of telephone efficiency (including statistics on busy signals and response time), and reports detailing customer service requests, outages and repairs.
Customer service representative/employee identification	Employees who come to customers' residences must wear current picture identifications. Other company employees must wear name badges.

ISSUE

STANDARD

Handling of
service calls

Must be acknowledged within 24 hours; off premises repairs must be completed within 24 hours; all others within 48 hours. No charge allowed in absence of subscriber negligence or abuse.

Service call
scheduling

Appointments must be made either at a specific time or within a 4-hour time block, with adequate appointment time available during evenings and weekends. The company may not cancel any appointment less than 24 hours before the appointment time.

Credit for missed
service calls

For a failure to meet an appointment within the specified parameters, the company must, at the customer's discretion, give credit for one month's free service.

Service interruption
for system repair

Company must give at least 48 hours notice, and should not interrupt service except between 1 a.m. and 6 a.m.

Service of outages

Outages must be responded to and corrected promptly, and in no event later than 12 hours after the company is notified.

Credit for service
outages

Company must give 24-hour credit for every outage lasting more than 4 hours in any 24 hour period or calendar day.

Credit for reception
problems

Subscribers with reception problems remaining unrepaired 48 hours after the problem is reported are entitled to one day's credit for each 24 hour period in which the problem persists for at least 4 hours.

ISSUE

STANDARD

Installation
scheduling and
priorities

Installation must be performed within 7 business days after order is placed. Appointments must be made either at a specific time or within a 4-hour time block.

Billing and billing
disputes

Bills must be monthly and itemized. Bills must include the franchising authority's telephone number. The company must review billing disputes within 20 days. The customer has 10 business days thereafter to file an appeal to the franchising authority.

Late Charges

Late fees not exceeding the maximum percent allowed by law may be applied to a delinquent bill. Late charges may not be imposed until 45 days after the bill is mailed.

Resolution of
service-related
disputes

Company must semiannually provide notification to all customers that they may refer unresolved disputes to local franchising authority. All complaints should be resolved as soon possible, but no later than 10 business days after the complaint is received. Acknowledgment of receipt of written complaint must be made within 2 business days.

Voluntary
disconnection

Customer may request disconnection at any time without charge. Disconnection must occur as soon as possible, but no later than five days following the request. Deposit must be returned within 30 days after all equipment returned.

ISSUE

STANDARD

Involuntary
disconnection

Company may not disconnect until five days after customer is personally given separate notice, or 8 days after notice by mail, of delinquency. Subscriber is considered delinquent 45 days after bill is mailed, provided no bill shall be mailed more than 15 days prior to the date services covered by such bill commence. A subscriber may only be disconnected if subscriber tampers with equipment or payment is delinquent 45 days after the bill is mailed, and only then after 8 days following mailed notice, or 5 days after personal notice, of impending discontinuance.

Notice of rate
changes or
programming changes
or deletions

Notice must be given to franchising authority and to subscribers at least 30 days before any programming or rate change.

Provision of cable
service information
to subscribers

Cable companies must provide each subscriber with written information concerning rates and programming. This information must be given to new subscribers upon installation, at least annually to all subscribers and upon request. Written notice of all service terms and policies, including billing and complaint procedures, must also be provided to new subscribers upon installation, at least annually to all subscribers, and upon request.

Distribution of
promotional materials
to subscribers

All promotional materials must clearly disclose rates, terms and conditions of the promotion. Company must retain copies for at least one year, and furnish copies to the local franchising authority upon request.

ISSUE

STANDARD

Services to disabled people

Company must provide remote control devices to disabled persons, and must utilize TTD equipment.

Customer surveys and research

Company must research customer needs on an ongoing basis. As part of such research, Company must conduct customer satisfaction surveys.

Service technician availability

Service and repairs must be completed in 24 to 72 hours. Company must maintain a maintenance service capable of locating and repairing malfunctions 24 hours per day.

Channel location card

Company must provide and annually update a channel lineup card.

Customer credit reporting

The company must not, and must instruct all collection agencies not to, refer any delinquent account to a credit agency. If the company refers a delinquent account less than 10 days after account becomes delinquent, it must notify the credit agency of the error and pay the subscriber \$500.

Customer service supervisor response

Requests to speak to supervisors must be filled as soon as possible, but no later than 4 business hours after the request.

Foreign language requirements for customer service representatives

Company must have office employees who speak any language used by a substantial number of subscribers.

Damaged equipment

Subscriber is not liable for loss or damage caused by acts or events outside the subscriber's control.